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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,831	04/12/2004	Wanda Plimmer		3208

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,831	Applicant(s) PLIMMER, WANDA	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7,9-13 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,9-13 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/31/06</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Attached Sheet of drawing, (page 9 of Office action), showing Fig. 5 of Bostrom '421. .

Information Disclosure Statement

The information disclosure statement filed March 31, 2006 fails to fully comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the reference listed as 6,189,160 does not appear patented to Marcotte. It has been placed in the application file, but the information referred to therein, with respect to U.S. Patent No. 6,189,160, has not been considered as to the merits. Further, U.S. Patent No. 5,522,104 has already been cited by Examiner. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before

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the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 7, 11, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Design Patent 192,421 to Bostrom. Bostrom discloses, Figs. 4 and 5, (and, as shown on the attached sheet illustrating Fig. 5 of Bostrom), a contoured infant nursing pad comprising: a base having a first periphery, a second periphery, a third periphery, and a fourth periphery; a back wall (A) coupled to the base adjacent the first periphery for retaining the infant on the base; a first side wall (B) coupled to the base adjacent the second periphery for retaining the infant on the base; a second side wall (C) coupled to the base adjacent the third periphery for retaining the infant on the base; a front safety ridge (D) coupled to the base adjacent the fourth periphery for retaining the infant in an optimal nursing position and for preventing a nursing person from rolling onto the infant, wherein the fourth periphery is opposite the first periphery, the front safety ridge comprising: a first edge on a first side of the front safety ridge; a second edge on a second side of the front safety ridge; a top of the front safety ridge, the top located between the first edge and the second edge; and a curved transition (E) from the top of the front safety ridge to the base toward the back wall; wherein the infant reclined between the front safety ridge and the back wall is retained by the front safety ridge and the back wall; a first opening (F) along the fourth periphery between the first edge of the front safety ridge and the first side wall; a first breast shelf (G) located on the base adjacent the first opening; wherein the first breast shelf is inclined downward toward the back wall for

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aligning the infant's mouth for breastfeeding; a second opening (H) along the fourth periphery between the second edge of the front safety ridge and the second side wall; and a second breast shelf (I) located on the base adjacent the second opening; wherein the second breast shelf is inclined downward toward the back wall for aligning the infant's mouth for breastfeeding, (**claims 1, 5, 7, 11, 21, and 23**); a first recess (J) in the base adjacent to the first breast shelf and extending towards the back wall for accommodating in the first recess a first shoulder and a first upper arm of the infant when the infant's head is placed on the first breast shelf; and a second recess (K) in the base adjacent to the second breast shelf and extending the back wall for accommodating in the second recess a second shoulder and a second upper arm of the infant when the infant's head is placed on the second breast shelf, (**claims 2 and 22**). For **claim 3**, the "first breast shelf" would include (J) thus, "inclined downward toward the first side wall" while the "second breast shelf" would include (K) thus, "inclined downward from the second side edge to the second side wall".

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Design Patent 296,047 to Kucera et al. Kucera et al. discloses, Fig. 1, a contoured infant nursing pad comprising: a base; a back wall coupled to the base for retaining an infant on the base; a front safety ridge coupled to the base for retaining the infant in an optimal nursing position and for preventing a nursing person from rolling onto the infant; wherein the front safety ridge and the back wall are coupled to the base for retaining the infant reclined between the front

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safety ridge and the back wall; a first breast shelf located on the base on a first side of the front safety ridge; and a second breast shelf located on the base on a second side of the front safety ridge.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Straub et al. '531. Straub et al. '531 discloses, Figs. 13, 15, and 20, for example, a contoured infant nursing pad comprising: a base 31'; a back wall 36' coupled to the base for retaining an infant on the base; a front safety ridge 56 coupled to the base for retaining the infant in an optimal nursing position and for preventing a nursing person from rolling onto the infant; wherein the front safety ridge and the back wall are coupled to the base for retaining the infant reclined between the front safety ridge and the back wall; a first breast shelf, (along either side of 56), located on the base on a first side of the front safety ridge; and a second breast shelf, (along other side of 56), located on the base on a second side of the front safety ridge.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom '421 in view of Swenson '673.

Swenson '673 teaches utilization of polyurethane foam 38 within a cover 40 to form a seat. Therefore, to have formed the Bostrom '421 seat of polyurethane foam with a cover, thus providing a comfortable seat assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Swenson '673.

Claims 12, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom '421 in view of Swenson '673 as applied to claims 9-11 above, and further in view of either of Jacobs '313 and Lampton '023.

Each of Jacobs '313 and Lampton '023 teach application and utilization of pockets on and along a seat, 28 of Jacobs '313 and as can be seen in Figs. 1, 2, and 5 of Lampton '023. Therefore, to have provided the modified Bostrom '421 seat with pockets on and along a seat, thus allowing for convenient storage of any items by a user, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Jacobs '313 and Lampton '023.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Straub et al. '531 in view of Morton '715.

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Morton '715 teaches applying a cover, lines 8-9 of abstract, to an infant bed as well as application and utilization of pockets 46. Therefore, to have provided the Straub '531 infant bed with a cover, to form a comfortable surface, as well as provide pockets, thus allowing for convenient storage of any items by a user, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Morton 715.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5, 7, 9-13, and 21-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 35A**

M. Safavi
June 08, 2006

Attached Sheet

Fig. 5 of Bostrom '421:

